FISCAL NOTE

Bill #: SB0332 **Title:** Progressive gross receipts tax on retail sales

Primary Sponsor: Toole, K **Status:** As Introduced

Sponsor signature Date Chuck Swysgood, Budget Director Date

Fiscal Summary

	FY 2004 Difference	FY 2005 Difference
Expenditures:		
General Fund	$3,372,976	$3,149,297
Revenue:		
General Fund	$30,588,000	$31,536,000
State Special Revenue		
University System - Ag Experiment Stations	$10,196,000	$10,512,000
DPHHS - Affordable Housing	$10,196,000	$10.512,000
Local Governments	$10,196,000	$10,512,000
Net Impact on General Fund Balance:	$27,215,024	$28,386,703

- [x] Significant Local Gov. Impact
- [ ] Included in the Executive Budget
- [ ] Dedicated Revenue Form Attached
- [x] Technical Concerns
- [x] Significant Long-Term Impacts
- [x] Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

1. This bill would impose a tax on the gross receipts from retail sales of establishments with gross receipts of at least $10 million. The tax rate would be 1% on gross receipts between $10 million and $20 million, 1.5% on gross receipts in excess of $20 million but not over $30 million and 2% on gross receipts in excess of $30 million. Gross receipts from sales for resale, sublease or subrent and from sales of motor vehicles, farm implements and construction equipment are exempt from the tax.
2. The tax would be paid annually, for sales during a calendar year, with payment for the preceding year due by January 31. The tax would apply beginning calendar year 2003.
3. In calendar year 2003, retailers' gross receipts of $1.577 billion would be subject to the 1% tax rate, gross receipts of $0.920 billion would be subject to the 1.5% tax rate, and gross receipts of $1.580 billion would be subject to the 2% tax rate. In calendar year 2004, retailers gross receipts of $1.625 billion would be subject to the 1% tax rate, gross receipts of $0.949 billion would be subject to the 1.5% tax rate, and gross receipts of $1.629 billion would be subject to the 2% tax rate. (Department of Revenue based on 1997 Economic Census)

4. Collections in fiscal 2004 for sales in calendar year 2003 would be $61.176 million (1% x $1.577 billion + 1.5% x $0.920 billion + 2% x $1.580 billion). Collections in fiscal 2005 for sales in calendar year 2004 would be $63.072 million (1% x $1.625 billion + 1.5% x $0.949 billion + 2% x $1.629 billion).
5. Revenue from this tax would be allocated as follows:
    a. 1/2 to the general fund
    b. 1/6 to the university system for agricultural experiment stations
    c. 1/6 to local governments for economic development
    d. 1/6 to the Department of Public Health and Human Services for affordable housing

   The following table shows the amount allocated to each recipient in fiscal years 2004 and 2005:

SB332 Revenue Allocation
($ million)

	FY 2004	FY 2005
General Fund	$ 30.588	$ 31.536
Ag Experiment Stations	$ 10.196	$ 10.512
Local Governments	$ 10.196	$ 10.512
DPHHS - Affordable Housing	$ 10.196	$ 10.512

6. The Department of Revenue would require 1.25 additional FTE to register taxpayers, process returns and audit taxpayers. Personnel costs would be $42,694 in fiscal 2004 and $42,398 in fiscal 2005. Operating costs would be $4,624 in fiscal 2004 and $4,660 in fiscal 2005. Equipment for the additional staff, with costs of $5,800 would be purchased in fiscal 2004.
7. Because tax collections would be in the tens of millions of dollars, the Department of Revenue would implement a new computerized tax processing system for this tax. The department would buy a system from a vendor and the vendor and department employees would customize and implement the system. Contractors would be hired to temporarily replace department employees involved in the project. Operating costs would be $3,294,869 in fiscal 2004 and $3,102,239 in fiscal 2005. Equipment for the contractors, with a cost of $24,989 would be purchased in fiscal 2004.

FISCAL IMPACT:	FY 2004 Difference	FY 2005 Difference
FTE	1.25	1.25
Expenditures:		
Personal Services	$42,694	$42,398
Operating Expenses	$3,299,493	$3,106,899
Equipment	$30,789	$0
TOTAL	$3,372,976	$3,149,297
Funding of Expenditures:		
General Fund (01)	$3,372,976	$3,149,297
Revenues:		
General Fund (01)	$30,588,000	$31,536,000
State Special Revenue (02)		
University System - Experiment Stations	$10,196,000	$10,512,000

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DPHHS - Affordable Housing	$10,196,000	$10,512,000
Other		
Local Governments	$10,196,000	$10,512,000

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	$27,215,024	$28,386,703
University System - Experiment Stations	$10,196,000	$10,512,000
DPHHS - Affordable Housing	$10,196,000	$10,512,000
Federal Special Revenue (03)		
Other		
Local Governments	$10,196,000	$10,512,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
This bill would allocate $10.196 million to local governments for economic development expenditures in fiscal 2004 and $10.512 million in fiscal 2005.

LONG-RANGE IMPACTS:
Total revenues in excess of $60 million annually would be collected and distributed as provided in this act.

TECHNICAL NOTES:
1. The subsections in Section 1 need to be renumbered.
2. This fiscal note assumes that sales of raw materials, unfinished products, components, and machinery that will be used in the production of final goods would not be subject to this tax. However, the definitions in Section 1 do not clearly either include or exclude these types of sales. Subsection (2)(a) defines "gross receipts" as being from retail sales of stores. This implies that sales of establishments, such as manufacturing plants or farms, that are not stores would not be subject to the tax. However, the term stores is not defined, and it is not clear whether the tax would apply to establishments such as a firm selling office or manufacturing equipment from a warehouse. The only specific exemptions from taxable gross receipts are sales for resale, sublease, or subrent and sales of farm implements, special mobile equipment, and vehicles. Sales or gross receipts tax laws in other states generally eliminate these ambiguities by specifically taxing or exempting sales of raw materials, unfinished products, components and machinery.
3. Subsection 3(1) refers to a person using property within this state that is subject to this tax. This reference is not necessary, because Sections 1 and 2 do not impose a tax on the use of property.
4. Section 4 allocates part of the revenue from this tax to local governments. The bill needs to specify how these funds are to be divided among local governments.
5. The earliest that the Department of Revenue could implement a computerized processing system for a new tax is January 1, 2005. To implement this tax on the timeline called for in this bill, the department would have to use some form of work-around for the first year's returns, such as immediately depositing the collections but holding the returns for processing until the system is implemented. By the time tax year 2004 returns would be filed (in January 2005), a full system would be in place. Thereafter, all functions (registrations, return processing, payments, refunds, delinquent processing, etc.) would be administered with the aid of an automated system with the requisite internal controls.
6. Department of Revenue computer system costs were estimated without the use of ITSD/CIO recommended project methodology.
7. The information technology project required to implement this legislation would require the review and approval of the Chief Information Officer as provided for in MCA 2-17-512.